

WEST VIRGINIA INFORMATIONAL LETTER

No. 24

May 1984

TO: All Excess Line Brokers And All Other Interested Persons

It has come to the attention of the Insurance Commissioner that some excess line brokers may be charging fees, variously described as policy, administrative, servicing or placement fees, in addition to the premium for the coverage purchased.

As evidenced by the attached copy of an October 18, 1971, Bulletin by former Insurance Commissioner, Samuel H. Weese, the Insurance Department's long-standing position has been that agents and brokers are prohibited from charging such fees.

It is recommended that the attached Bulletin be reviewed and that your actions be guided accordingly.

Richard G. Shaw
Insurance Commissioner

BULLETIN 8

EXCESSIVE CHARGES BY AGENTS

October 18, 1971

It has come to the attention of the West Virginia Insurance Department that a number of agents are charging excessive consideration or "fees," variously described as "administrative," "clerical," "servicing," or "placement" fees, or by other designations, in connection with insurance transactions.

The West Virginia Code, Ch. 33, Art. 1, Section 17 (1931, as amended) defines "Premium" as the consideration for insurance, by whatever name called. By the terms of this definition any and all charges made by an agent in the taking of an application, the issuance of a policy, and any service rendered in connection therewith, are "premiums."

The administrative and clerical expenses attending the production of insurance and its servicing are normally considered by the insurer as an includable factor in calculating the appropriate premium to be charged for a policy of insurance.

The commissions paid an agent by the insurer he represents are deemed to constitute the entire compensation due him in connection with the solicitation, negotiation, making, procuring, or servicing of a policy of insurance.

It is, therefore, the position of this department that the charging by an agent of any extra consideration or fee, such as the above-enumerated, to defray expenses, customarily allocated to and included in the policy premium, amounts to an overcharge of premium and constitutes an unfair discrimination against any insured so charged.

Any agent found to be making such charges, inasmuch as they are deemed to be unfairly discriminatory, is engaging in an unfair trade practice, and will be subject to the appropriate penalties of law governing that activity.

Samuel H. Weese
Insurance Commissioner